

REMARKS

In response to the Restriction Requirement mailed September 3, 2004, applicants hereby provisionally elect to prosecute the claims of Group IV. However, the Restriction Requirement is not believed to be well taken and is respectfully traversed.

Restriction Requirement**Group Election**

The Examiner has required restriction to one of the following groups of claims under 35 U.S.C. § 121:

- Group I. Claims 11-17, drawn to compounds wherein R₁ is phenyl, classified in class 546, subclass 234;
- Group II. Claim 18, drawn to compounds wherein R₁ is thienyl, classified in class 546, subclass 212;
- Group III. Claims 10, 55, and 62, remaining compounds, drawn to compounds wherein R₁ is another heteroaryl moiety, classified in various classes and subclasses depending upon species election;
- Group IV. Claims 28-33, drawn to indolylpiperidines, classified in class 546, subclass 201;
- Group V. Claims 63, and 68-70, drawn to methods of treating disorders selected from depression, anxiety, urge incontinence or obesity, classified in class 514, various subclasses, depending on species election.

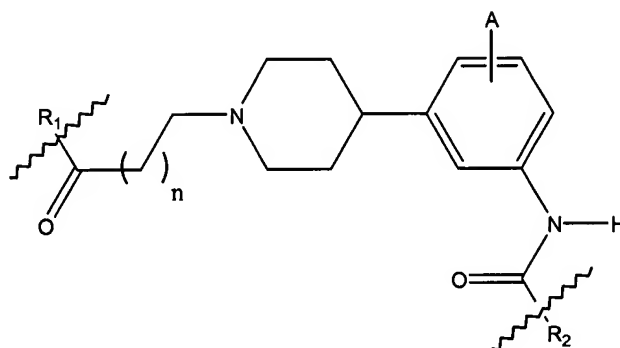
The Examiner asserts that Groups I and II-IV are independent and distinct because the chemical structure of the different groups differ from each other in elements, chemical structure, and chemical properties, so as to not be recognized as a general class/subclass of compounds. The

Examiner cites CA 136:96697 and asserts that analogous compounds wherein R₁ is phenyl have MCH1 activity, whereas when R₁ is thienyl, the compounds have prenyl transferase inhibition activity, and when R₁ is broadly optionally substituted heteroaryl, the compounds are useful in treating obesity.

The Examiner further asserts that Groups I-IV and V are distinct because the process for using the product as claimed can be practiced with another materially different product, as noted in U.S. Patent No. 6,720,324.

In order to be fully responsive, Applicants hereby provisionally elect, with traverse, the claims of Group IV. Applicants note that upon election of Group IV, the Examiner has indicated that generic claims 55 and 62 will be prosecuted to the extent of claim 28.

Applicants traverse this restriction requirement and respectfully submit that although the R₁ group differs, the compounds of Groups I-IV, as designated by the Examiner, each possess the substituted phenyl piperidinyl structural core unit shown below:

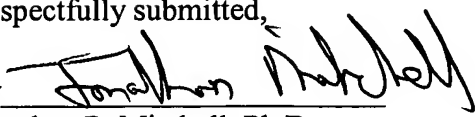


The R₁ group (and the R₂ group) are substituents attached to this central substituted phenyl piperidinyl core. Applicants submit that a search of the prior art related to this central phenyl piperidinyl core structure should develop prior art relevant to the compounds designated by the Examiner as Groups I-IV. Therefore, the claims of Groups I-IV can be searched without placing an undue burden on the PTO, and should be examined in the same application.

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Respectfully submitted,

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